

9. Understand Codes and Regulations

As a public toilet advocate, you need to be aware of building and plumbing codes, disability access requirements, historic design guidelines, permitting procedures and other regulations that guide the design, construction, and use of a public toilet facility. Some of these regulations operate at the federal level, others at the state and local levels. Some are mandatory, others voluntary but subject to review. Most documentation for your area can be found online, in the reference section of your local library or through inquiries to the relevant public officials.

As for the rights of restroom users, the laws are fairly inconsistent in the United States. The Occupational Safety and Health Administration (OSHA) of the US Department of Labor ensures that employees “will not suffer the adverse health effects that can result if toilets are not available” when needed. The rights for workers under OSHA are specified in the Code of Federal Regulations 29.¹ Note that as soon as workers are off the job, they are no longer protected under OSHA. There are far fewer protections for the rights of the general public to use toilets away from home.²

The number and type of toilets required in a building is determined by the occupancy stipulated for the building. Consequently, building and plumbing codes relate to the rights of toilet users. Restroom access is building-related; health and other codes and one’s status as a customer should not apply. However, businesses have been effective in declaring homeless individuals non-customers and therefore denying them the access enshrined in the building codes. Although codes are usually adopted at the state level, they are enforced at the local level. If someone is denied access to the restroom in a business, the city code enforcement officer is the person to contact.

The Americans with Disabilities Act (ADA) specifies protection to disabled people in retail establishments and in local and state government facilities. In other areas of the public sphere - transit systems, pedestrian areas of the city, commuter routes for cyclists and walkers - regulations that protect the basic right to a toilet are weak or non-existent.

Building and Plumbing Codes

Local governments issue permits for the construction and renovation of buildings according to prevailing building and plumbing codes. Codes are generally adopted by states and may apply statewide, although enforcement is done at the local level. The section of the building code that applies to toilet facilities is the plumbing code. Individual states generally follow one of three code models: the International Plumbing Code (IPC), the Uniform Plumbing Code (UPC), or the National Standard Plumbing Code (NSPC). Plumbing codes based on building occupancy determine the number and type of toilet facilities required. Commercial code enforcement applies to all buildings where the public has access for any commercial reason.

Water Use Regulations

Worsening drought conditions in the western portion of the US are bringing new state and local regulations regarding water use. For example, the California Energy Commission has set new limits for 2016 and beyond. All commercial and residential toilets sold are required to have water use of not more than the following: 1.28 gallons per toilet flush, 0.125 gallons per urinal flush, and 0.5 gallons per minute from public lavatory faucets. In contrast with home bathrooms, toilets alone use an estimated 44% of water use in public restroom. According to Environmental Protection Agency estimates,

¹ 29 CFR 1910.141. <http://www.gpo.gov/fdsys/granule/CFR-2011-title29-vol5/CFR-2011-title29-vol5-sec1910-141>. Accessed October 23, 2015 and 29 CFR 1926.51 <http://www.gpo.gov/fdsys/granule/CFR-2011-title29-vol8/CFR-2011-title29-vol8-sec1926-51>. Accessed October 23, 2015.

² Robert Brubaker and Carol McCreary, “US Public Health Mandates and the Restroom Problem in America: A Call To Action,” (presentation at World Toilet Summit, Delhi, November 1, 2007), <http://www.phlush.org/wp-content/uploads/2009/02/americanrestroomcalltoactionpaper.pdf>, accessed October 9, 2015.

the United States has 27 million automatic flush toilets with no-touch flush sensors. There is growing concern about the current lack of water-saving standards related to sensor accuracy.³



Sensors on toilets are responsible for 'phantom flushes' and increased water use.

A 2010 study compared water use on one floor of a Florida office building before and after the installation of automatic sensors to control water flow. Researchers found that "the total average daily demand of the men's and ladies' restrooms almost doubled from 654 to 1,243 gallons per day when all faucets, urinals, and toilets were converted to sensor-operated units." They attributed this to the "phantom flushes" set off if a user lays toilet paper on the seat or makes unpredictable moves.⁴ The removal of automatic sensors from toilets in the

main airports of Los Angeles and San Francisco would save more than 80 million gallons of water a year.⁵

Historic Design Guidelines

Historic design guidelines help establish a common understanding of the character of a city's oldest districts. Preserving finite historic resources maintains a community's identity and can leverage economic development through heritage tourism. Written for permitting authorities and property owners, these standards and recommendations apply to all properties within a designated district. They may include anything from removal or demolition of structures to the addition of a window, door, or sign. Citizen advocates should take local historic design guidelines into careful account before making any specific proposal. Failure to observe the character of an historic district can bring opposition from respected neighborhood leaders.

Access for People with Special Needs

The Americans with Disabilities Act of 1990 is a broad civil right law that not only prohibits discrimination based on disabilities but also imposes accessibility requirements on public accommodations such as toilets. The ADA was updated in 2010. There are numerous tools available online to help architects and designers of toilet facilities comply with the law. Among them are *A Practical Guide to 2010*

³ Sara Jerome, "Phantom Flush' In Public Restrooms May Be Hurting Conservation," Water Online, September 29, 2015, <http://www.wateronline.com/doc/phantom-flush-in-public-restrooms-may-be-hurting-conservation-0001>, accessed October 1, 2015.

⁴ Bill Gauley and John Koeller, Sensor-Operated Plumbing Fixtures Do They Save Water? March 2010, <http://www.map-testing.com/assets/files/hillsborough~study.pdf>, accessed September 27, 2015.

⁵ Marika Shioiri-Clark, "How phantom flushing wastes water, and how to fix it," *Los Angeles Times* (Op-Ed), May 15, 2015. <http://www.latimes.com/opinion/op-ed/la-oe-shioiri-clark-drought-phantom-flushes-20150510-story.html>, accessed September 27, 2015.

*ADA-Compliant Restroom Design*⁶ and the ADA Checklist for Existing Facilities - Priority 3 Toilet Rooms.⁷

Important standards of physical accessibility are also found in the Accessible and Usable Buildings and Facilities of the American National Standards Institute (ANSI). ANSI is a neutral forum for the development of policies and serves as a watchdog for standards development. ANSI coordinates voluntary standards but does not develop them.

In *Publicly Accessible Toilets: An Inclusive Design Guide*⁸, Gail Knight and Jo-Anne Bichard offer practical solutions to making restrooms accessible to people with disabilities. While the work addresses some requirements specific to the United Kingdom, the full color illustrations and avoidance of the technical language of codes are helpful.

All-gender and family toilets

Architects, urban planners, and building code officials have long failed to anticipate the needs of contemporary society. Until recently most new restrooms were built in a traditional, mid-20th century style designed to serve conventional families. Little effort was made to accommodate single parents, same-sex parents, or anyone with an opposite-sex caregiver.

Today, gender non-conforming people who are at the forefront of the toilet revolution understand that facilities need private all-gender stalls that can be entered directly from public spaces. Therefore, PHLUSH recommends this type of stall for all sites where members

of the general public gather. Known in the United Kingdom as 'direct access' toilets, they are highly efficient in terms of use. Without extra doors they are easier to enter. They do not have the shared semi-public space where LGBT people and gender non-conforming individuals may face harassment. Older facilities that have men's and women's rooms need be fitted with at least one family restroom that can accommodate single users, families and people with mobility devices and caregivers.



The term 'all-gender' has replaced 'unisex' and 'gender-neutral' in jurisdictions such as Seattle.

In the United States, the federal law known as Title IX prohibits discrimination on the basis of sex in any federally funded education program or activity. The Departments of Education and Justice have stated that under Title IX, *discrimination based on a person's gender identity, a person's transgender status, or a person's nonconformity to sex stereotypes constitutes discrimination based on sex. As such, prohibiting a student from accessing the restrooms that matches his gender identity is prohibited sex discrimination under Title IX. There is a public interest in ensuring that all students, including transgender students, have the opportunity to learn in an environment free of sex discrimination.* In turn, many state education departments are issuing guidelines that call for all-gender toilet rooms.

⁶ Pitts, Jeanette Fitzgerald. A Practical Guide to 2010 ADA-Compliant Restroom Design. Architectural Record Continuing Education Center. September 2014, <http://continuingeducation.construction.com/article.php?L=314&C=926&P=1>, accessed October 12, 2015.

⁷ Institute for Human Centered Design. The ADA Checklist for Existing Facilities - Priority 3 Toilet Rooms, <http://www.adachecklist.org/doc/priority3/p3.pdf>, accessed October 12, 2015.

⁸ Gail Knight and Jo-Anne Bichard, "Publicly Accessible Toilets An Inclusive Design Guide," Royal College of Art, Helen Hamlyn Centre for Design, 2011, http://www.hhc.rca.ac.uk/CMS/files/Toilet_LoRes.pdf, accessed October 12, 2015.